

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #14	CCRB Case #: 202002440	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday 03/31/2020 3:50 PM	18 Mo. SOL 09-30-2021	EO SOL 05-04-2022	Location of Incident: 79th Precinct stationhouse		Precinct: 79
Date/Time CV Reported Tue, 03/31/2020 7:25 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 03/31/2020 7:25 PM		

Complainant/Victim	Type	Home Address
1. N ■■■ S ■■■	Comp/Victim	■■■ Willoughby Avenue Apt ■■■ Brooklyn NY 11206
2. C ■■■ H ■■■	Victim	■■■ Willoughby Avenue Apt ■■■ Brooklyn NY 11206
3. A ■■■ N ■■■	Comp/Victim	■■■ Willoughby Avenue Apt. ■■■ Brooklyn NY 11206

Witness(es)	Home Address
1. Dom ■■■ H ■■■	■■■ Pulaski Street ■■■ Brooklyn NY 11221
2. Xa ■■■ H ■■■	■■■ Deerfield Road ■■■ Far Rockaway NY 11691
3. A ■■■ C ■■■ H ■■■	■■■ Deerfield Road ■■■ Far Rockaway NY 11691

Subject Officer(s)	Shield	TaxID	Command
1. SGT E ■■■ F ■■■	■■■	■■■	■■■
2. SGT Akil Guy	03541	954274	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT Akil Guy	Abuse of Authority: Sergeant Akil Guy refused to provide his shield number to C ■■■ H ■■■	A . Unsubstantiated
B . SGT E ■■■ F ■■■	Force: Sergeant E ■■■ F ■■■ used physical force against A ■■■ N ■■■	B . Unsubstantiated
C . SGT Akil Guy	Discourtesy: Sergeant Akil Guy spoke discourteously to N ■■■ S ■■■	C . Unfounded
D . SGT Akil Guy	Offensive Language: Sergeant Akil Guy made remarks to N ■■■ S ■■■ based upon ethnicity.	D . Unfounded
E . SGT Akil Guy	Offensive Language: Sergeant Akil Guy made remarks to N ■■■ S ■■■ based upon the gender of N ■■■ S ■■■	E . Unfounded
F . SGT Akil Guy	Other Possible Misconduct Noted: Sergeant Akil Guy improperly used his body-worn camera according to Patrol Guide Procedure 212-123.	F . Other Possible Misconduct

### Case Summary

On March 31, 2020, N ■■■ S ■■■ filed this complaint via the CCRB's online website on behalf of herself and her boyfriend, C ■■■ H ■■■. On the same day, Ms. S ■■■ sister, A ■■■ N ■■■ called the CCRB and filed a duplicate of this complaint in which she also identified herself as a victim.

On March 31, 2020, at approximately 3:50 p.m., C ■■■ H ■■■ and his sister, Dom ■■■ H ■■■ went to the 79<sup>th</sup> Precinct stationhouse in Brooklyn to retrieve property vouchered during a previous arrest. C ■■■ H ■■■ after interacting with Sergeant Akil Guy of 79<sup>th</sup> Precinct, pulled out his phone and said to Sgt. Guy, "I'm going to need your badge number," which Sgt. Guy allegedly did not provide (**Allegation A: Abuse of Authority, unsubstantiated**). Sgt. Guy, with the assistance of other officers, arrested C ■■■ H ■■■ for allegedly recording on his phone while inside the precinct stationhouse. Ms. H ■■■ then left the stationhouse. Xa ■■■ H ■■■ C ■■■ and Dom ■■■ brother, entered the stationhouse and spoke with officers and thereafter left.

Approximately 30 minutes later, at 4:40 p.m., Ms. N ■■■ and Ms. S ■■■ went to the 79<sup>th</sup> Precinct stationhouse to obtain more information about C ■■■ H ■■■ status. Sergeant E ■■■ P ■■■ of the 79<sup>th</sup> Precinct then once pushed Ms. N ■■■ as she stood in the vestibule of the stationhouse (**Allegation B: Force, unsubstantiated**). Ms. N ■■■ and Ms. S ■■■ then left the stationhouse.

Ms. S ■■■ and her boyfriend's sister-in-law, A ■■■ C ■■■ H ■■■ returned to the stationhouse at approximately 4:55 p.m., as Ms. S ■■■ wished to retrieve her vouchered property from a previous arrest. Ms. S ■■■ spoke with Sgt. Guy, who allegedly told her to "shut the fuck up" and called her a "dumbass" and "black bitch" (**Allegation C: Discourtesy, unfounded**) (**Allegations D-E: Offensive Language, unfounded**). Ms. S ■■■ and Mrs. C ■■■ H ■■■ then left the stationhouse.

Sgt. Guy did not activate his body-worn camera (BWC) while he assisted in C ■■■ H ■■■ arrest (**Allegation F: Other Misconduct**).

C ■■■ H ■■■ was arrested for criminal trespass in the third degree and two counts of disorderly conduct (BR 01). Per the Office of Court Administration (OCA), C ■■■ H ■■■ criminal case was adjourned in contemplation of dismissal on October 13, 2020 (BR 02).

The CCRB received BWC footage from Police Officer McCartney Forbes of the 79<sup>th</sup> Precinct, which captured C ■■■ H ■■■ arrest processing and thus did not capture any of the alleged FADOs. The CCRB also received surveillance footage from the 79<sup>th</sup> Precinct stationhouse, the relevant aspects of which are discussed below.

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: Sergeant Akil Guy refused to provide his shield number to C ■■■ H ■■■**

The investigation established the following facts: C ■■■ H ■■■ and Ms. H ■■■ went to the 79<sup>th</sup> Precinct stationhouse in Brooklyn to retrieve their property following their arrests ten days prior. Upon their arrival, C ■■■ H ■■■ spoke with officers in the lobby for several minutes. After approximately 10 minutes, Sgt. Guy approached C ■■■ H ■■■. Officers, including Sgt. Guy, surrounded C ■■■ H ■■■ and handcuffed him.

C ■■■ H ■■■ said (BR 03) that he was sitting in the stationhouse and talking to an officer when Sgt. Guy told him to stop talking. Sgt. Guy then allegedly told C ■■■ H ■■■ to exit the precinct stationhouse. C ■■■ H ■■■ stood up and began to walk towards the exit. Sgt. Guy walked around the main desk towards C ■■■ H ■■■ at this point, C ■■■ H ■■■ pulled out his phone to document Sgt. Guy's shield number and said to Sgt. Guy, "I'm going to need your badge number." As C ■■■ H ■■■ only took out his phone to make note of Sgt. Guy's shield number, and thus did not record, an interference with video recording allegation was not pled. Another officer said, "He's recording. Arrest him," in regard to C ■■■ H ■■■ C ■■■ H ■■■ told officers that he was not recording. Sgt. Guy did not provide his shield number to C ■■■ H ■■■.

Ms. H ■■■ (BR 04) said that when she and C ■■■ H ■■■ went to the stationhouse, Sgt. Guy

directed them to sit down. C H spoke with an officer at the precinct for a time; Sgt. Guy told C H to be quiet or leave the stationhouse. C H looked at Ms. H and said, "Did you hear him? What did I do?" Sgt. Guy then approached C H. C H pulled out his phone. A plainclothes officer appeared from a side room off the lobby, grabbed C H and told him he was under arrest for recording on his phone while inside the stationhouse. Ms. H who was interviewed prior to C H made no mention of C H requesting a shield number from Sgt. Guy.

Sgt. Guy testified (BR 05) that C H said that he was going to record and Sgt. Guy told him that he could not record inside the stationhouse. Sgt. Guy said that there was a sign inside the precinct stationhouse that declared that recording inside the precinct stationhouse was prohibited. Once C H began to record on his phone, Sgt. Guy told C H that he was under arrest. Sgt. Guy did not recall if he had directed C H to leave the stationhouse prior to his arrest. Sgt. Guy did not recall if C H said to him, "I'm going to need your badge number." Sgt. Guy said that he would never refuse to provide his shield number to anyone who asked.

Sgt. P (BR 06), who testified that he rotated as the desk officer with Sgt. Guy during this incident, had no independent recollection of any interaction with C H.

Sgt. Guy did not activate his BWC during this incident.

79<sup>th</sup> Precinct stationhouse surveillance footage, which contains no audio, captures the interaction between Sgt. Guy and C H. From the 28:00 to 30:45 timestamps, C H pictured wearing a blue jacket over a beige hoodie, speaks with an individual off-camera. At the 30:55 timestamp, Sgt. Guy approaches C H. As Sgt. Guy approaches, C H pulls out his phone, opens the camera app, and faces his camera towards Sgt. Guy. Sgt. Guy and several other officers then apprehend C H. Sgt. P is not shown during this time.

Given the inconsistent civilian and officer testimony regarding this aspect of the incident, and in the absence of additional evidence or independent corroboration, the investigation was unable to determine if Sgt. Guy failed to provide his shield number to C H upon request. As such, the investigation recommends that **Allegation A** be closed as **unsubstantiated**.

#### **Allegation (B) Force: Sergeant E P used physical force against A N**

The investigation established the following facts: Approximately 30 minutes after C H arrest, Ms. N and Ms. S arrived at the 79<sup>th</sup> Precinct stationhouse. At the time, a traffic cone had been placed in the doorway between the entry vestibule and stationhouse lobby to keep the door from closing. Ms. N spoke to a female officer and Sgt. P inside the lobby. Ms. N backed up to the doors separating the vestibule of the stationhouse from the lobby and Sgt. P followed. Sgt. P then once touched Ms. N on the left arm and thereafter pushed Ms. N into the vestibule and closed the door separating the lobby from the vestibule. Sgt. P then walked away.

Ms. N (BR 07) said that she spoke briefly with Sgt. P who told her that she had to come back to the precinct another time. Ms. N responded that she needed to speak with someone regarding C H before leaving the stationhouse. Sgt. P reiterated that Ms. N had to come back another time, and furthermore cited that a new social distancing rule that capped the number of people inside the precinct lobby at three. Ms. N noted that there were only three people in the stationhouse prior to Sgt. P walking over and speaking to Ms. N. Sgt. P approached Ms. N. Ms. N then backed away from Sgt. P towards the doors separating the vestibule from the lobby. Sgt. P continued to approach Ms. N. Sgt. P allegedly pushed Ms. N by her upper left arm with his right arm. Ms. N continued to step back, until she stood behind the doors that separated the lobby from the vestibule. Ms. N replied, "How dare you," regarding Sgt. P first push. Sgt. P then pushed Ms. N for a second time with both his arms. Ms. N alleged she stumbled backwards and down the stairs in the entry vestibule but did not fall.

Ms. S [REDACTED] (BR 08-09) said that Sgt. P [REDACTED] told Ms. N [REDACTED] that she would have to step back and leave because there could only be three people in the precinct lobby at a time. Ms. N [REDACTED] said she understood, although she did not see a sign explaining that only three people could be in the precinct lobby at any time. Ms. N [REDACTED] began to turn around to step back, at which point Sgt. P [REDACTED] pushed her left shoulder with one hand. Ms. N [REDACTED] stepped back in response to this first push and said “Did he just push me? Why would you put your hands on me?” in reference to Sgt. P [REDACTED]. Sgt. P [REDACTED] again yelled to Ms. N [REDACTED] to step back. Sgt. P [REDACTED] then walked towards Ms. N [REDACTED] again and once he was within arm’s length, Sgt. P [REDACTED] again pushed Ms. N [REDACTED] with both hands on Ms. N [REDACTED] shoulders.

Sgt. P [REDACTED] had no independent recollection of this incident. Upon reviewing stationhouse footage, Sgt. P [REDACTED] did not remember the content of any dialogue shared between him and Ms. N [REDACTED] and did not remember specifically why he pushed Ms. N [REDACTED].

79<sup>th</sup> Precinct stationhouse surveillance footage (BR 10) shows Ms. N [REDACTED] enter the lobby of the precinct stationhouse at the 01:10:25 timestamp. Ms. N [REDACTED] speaks with a uniformed female officer for approximately 30 seconds. Sgt. P [REDACTED] approaches Ms. N [REDACTED] at the 01:10:40 timestamp. Sgt. P [REDACTED] first addresses Ms. N [REDACTED] at 01:10:55. At 01:11:00, Sgt. P [REDACTED] motions his hands towards the vestibule while speaking with Ms. N [REDACTED]. At 01:11:02, Ms. N [REDACTED] walks towards the doors separating the lobby from the vestibule. As she exits into the vestibule, Sgt. P [REDACTED] continues to follow her, staying within arm’s length of Ms. N [REDACTED]. At 01:11:18, when Ms. N [REDACTED] body partially obstructs the door from closing, Sgt. P [REDACTED] touches Ms. N [REDACTED] on her upper left arm with his right hand. Ms. N [REDACTED] takes two steps back and no longer obstructs the doorway but remains standing inside of the stationhouse’s entrance vestibule. At 01:11:21, Sgt. P [REDACTED] pushes Ms. N [REDACTED] left arm with his left hand, and Ms. N [REDACTED] takes another two steps back. Sgt. P [REDACTED] then pulls the door partially shut (a traffic cone prevents the door from closing) and walks away.

While stationhouse surveillance footage corroborated that Sgt. P [REDACTED] pushed Ms. N [REDACTED] given Sgt. P [REDACTED] lack of recollection regarding this incident and the context of the push, the investigation could not determine whether Sgt. P [REDACTED] push of Ms. N [REDACTED] was justified. As such, the investigation recommends that **Allegation B** be closed as **unsubstantiated**.

**Allegation (C) Discourtesy: Sergeant Akil Guy spoke discourteously to N [REDACTED] S [REDACTED]**

**Allegation (D) Offensive Language: Sergeant Akil Guy made remarks to N [REDACTED] S [REDACTED] based upon ethnicity.**

**Allegation (E) Offensive Language: Sergeant Akil Guy made remarks to N [REDACTED] S [REDACTED] based upon the gender of N [REDACTED] S [REDACTED]**

The investigation established the following facts: Ms. C [REDACTED] H [REDACTED] and Ms. S [REDACTED] went to the 79<sup>th</sup> Precinct stationhouse at approximately 4:55 p.m. The two walked into the lobby and Ms. S [REDACTED] spoke with an officer for approximately thirty seconds before exiting the stationhouse.

Ms. S [REDACTED] said that when she went to the desk, an Asian male officer began to assist her in retrieving her property. Sgt. Guy then approached the desk and said, “Didn’t I tell y’all to leave?” Ms. S [REDACTED] continued to talk to the Asian male officer when Sgt. Guy allegedly told Ms. S [REDACTED] to “shut the fuck up” and furthermore called Ms. S [REDACTED] a “dumbass” and “black bitch.”

Mrs. C [REDACTED] H [REDACTED] (BR 12) said that Sgt. Guy approached herself and Ms. S [REDACTED] while they were at the desk, saying, “Didn’t we tell you to leave?” Ms. S [REDACTED] and Sgt. Guy began to argue, though Mrs. C [REDACTED] H [REDACTED] did not remember any specifics of their argument. However, Sgt. Guy never told Ms. S [REDACTED] to “shut the fuck up” and Sgt. Guy never called Ms. S [REDACTED] a “dumbass” and “black bitch.”

Sgt. Guy did not recall if he spoke with Ms. S [REDACTED] when she came to the stationhouse with Mrs. C [REDACTED] H [REDACTED]. Sgt. Guy did not recall having any conversation with Ms. S [REDACTED]. Sgt. Guy did not recall if he was at the precinct stationhouse when Ms. S [REDACTED] and Mrs. C [REDACTED] H [REDACTED] were there. Sgt. Guy did not tell Ms. S [REDACTED] to “shut the fuck up” and did not call her a “dumbass” or “black bitch.”



- [REDACTED]
- As of September 16, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 17).
- [REDACTED]
- [REDACTED]
- [REDACTED]

Investigator:	<u>Ethan C. Waterman</u> Signature	<u>Inv. Ethan Waterman</u> Print Title & Name	<u>February 26, 2021</u> Date
Squad Leader:	<u>Cassandra Fenkel</u> Signature	<u>IM Cassandra Fenkel</u> Print Title & Name	<u>March 1, 2021</u> Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date